IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6130 OF 1997

M/s.Harnik Food Industries
and others. ... Petitioners.

V/s.

Union of India and others. ... Respondents.

K.R.Bulchandani i/b. M/s.Kamal & Co.
for the petitioners.

R.V.Desai, senior counsel with P.S.Jetly,
Mrs.S.V.Bharucha and A.S.Rao for the respondents.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 28th April 2005.

P.C. :

. Heard rival parties.

2. The issue sought to be raised in this petition is squarely covered by the order of this Court dated 17th March, 2005 (unreported) in Writ Petition No.2416 of 1999 (**M/s.Lubricare Pvt.Ltd. v. Union of India**).

3. In view of the aforesaid position, present petition is allowed for the reasons stated in the order of this Court dated 17th March, 2005. The order dated 17th June, 1996 passed by the Commissioner of Central Excise (Appeals), Pune

incorporated at Exh.T to the petition and the order in original dated 30th September, 1997 passed by the Assistant Commissioner of Central Excise, Pune incorporated at Exh.U to the petition are set aside. The proceedings are remitted back to the Commissioner of Central Excise (Appeals), Pune for decision on merits and in accordance with law, but after decision of the Tribunal in Appeal No.E/929/R/96-BOM and Appeal No.E/930/R/96/BOM. Till such time, the present petitioners/ appellants before the Tribunal undertakes to keep the bank guarantees alive.

4. It is needless to mention that after disposal of the appeals by the Tribunal, the petitioners shall communicate the orders of the Tribunal to the appellate authority so as to get the appeals disposed of accordingly. All rival contentions are kept open.

5. Petition stands disposed of in terms of this order with no order as to costs.

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